

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

VANCE W. BREWER and CINDY T.
BREWER,

Plaintiffs,

1:12-CV-1803-PA

TEMPORARY RESTRAINING ORDER

v.

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR THE
HOLDERS OF NEW CENTURY HOME
EQUITY LOAN TRUST, SERIES 2005-
A, ASSETT BACKED PASS-THROUGH
CERTIFICATE, and RECONTRUST
COMPANY, N.A.,

Defendants.

PANNER, District Judge.

Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on October 12, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Amongst other arguments,

plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings.

In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, *3 (D. Or. May 25) (internal citation omitted; In re McCoy, 2011 WL 477820, at *3-4 (Bankr. D. Or. Feb. 7)); James v. Recontrust Co., et al, 2012 WL 653871, at *19-20 (D. Or. Feb. 29).

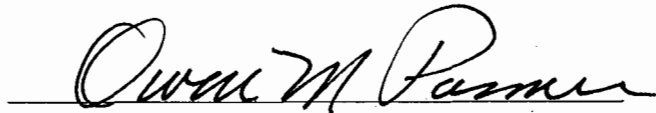
Plaintiffs also allege the company who allegedly assigned the deed of trust to defendant Deutsche Bank no longer existed on the date of the alleged assignment.

Because of the alleged imminent foreclosure sale, and because plaintiffs' allegations demonstrate a sufficient likelihood of success on the merits of her claim that defendants did not comply with the recording requirements of the Oregon Trust Deed Act, I grant plaintiffs' request for a temporary restraining order (#2). Defendants, and their officers and agents, and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 850 South Fifth Street, Central Point, Oregon, from this day until Monday, October 22, 2012, at 5:00 p.m. I will hold

a hearing on whether to issue a preliminary injunction at 1:00 p.m. on October 22, 2012, in the James A. Redden Courthouse in Medford.

IT IS SO ORDERED.

DATED this 9 day of October, 2012 at 12:30 P.M..

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

Owen M. Panner
United States District Judge